

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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PAPA HULUWAZU,

Plaintiff,

v.

AIR FORCE, *et al*,

Defendants.

Case No. 2:15-cv-01295-MMD-PAL

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE PEGGY LEEN

Before the Court is the Report and Recommendation of United States Magistrate Judge Peggy Leen (ECF No. 5) (“R&R” or “Recommendation”) recommending the Court dismiss this action with prejudice. Plaintiff filed an objection and an amendment to his objection. (ECF Nos. 7, 8).

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge’s report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to which no


1 objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D.
2 Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the view that
3 district courts are not required to review "any issue that is not the subject of an objection.").
4 Thus, if there is no objection to a magistrate judge's recommendation, then the court may
5 accept the recommendation without review. See, e.g., *Johnstone*, 263 F. Supp. 2d at 1226
6 (accepting, without review, a magistrate judge's recommendation to which no objection
7 was filed).

8 In light of plaintiff's objections, the Court has engaged in a *de novo* review to
9 determine whether to adopt Magistrate Judge Leen's Recommendation. The gist of the
10 complaint involves a challenge of Plaintiff's discharge from the Air Force and the
11 Department of Veterans Affairs' ("VA") denial of certain benefits for Plaintiff's service-
12 related medical conditions. The Magistrate Judge recommends dismissing this action with
13 prejudice for lack of subject matter jurisdiction. Having reviewed the R&R (ECF No. 5)
14 and Plaintiff's objections and amendment to the same (ECF Nos. 7, 8), the Court agrees
15 with the Magistrate Judge and will adopt the R&R.

16 It is therefore ordered, adjudged and decreed that the Report and Recommendation
17 of Magistrate Judge Leen (ECF No. 5) is accepted and adopted in its entirety. Plaintiff's
18 IFP application (ECF No. 1) is granted. Plaintiff will not be required to pay the filing fee.
19 The Clerk is directed to file the Complaint (ECF No. 1-2). The Complaint is dismissed with
20 prejudice.

21 The Clerk of Court is directed to close this case.

22 DATED THIS 29th day of November 2016.

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25 _____
26 MIRANDA M. DU
27 UNITED STATES DISTRICT JUDGE
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